

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DENNIS DUBUC and CAROL DUBUC,

Plaintiffs,

v.

Case No. 08-13727

GREEN OAK TOWNSHIP, et al.,

Defendants.

ORDER FOR A RESPONSE AND TO CANCEL HEARING

Pending before the court are two motions filed in the above-captioned case.

Plaintiffs Dennis and Carol Dubuc filed a "Motion for Partial Summary Judgment" on March 10, 2009. Defendants Township of Green Oak, Mark St. Charles, Michael Kruszewski, and Kim Hunt filed a "Motion to Dismiss for Judgment on the Pleadings, or in the alternative, for Summary Judgment" on April 27, 2009. The parties have briefed the matter, and a hearing on the motions is currently scheduled for June 17, 2009.

In their final reply brief, Defendants argue that, to the extent Plaintiffs base their procedural due process claim on events occurring in 2002 or 2004, Plaintiffs did not have standing to raise a procedural due process claim because Plaintiffs were not the owners of the subject properties at the time.¹ "In its constitutional dimension, standing imports justiciability: whether the plaintiff has made out a 'case or controversy' between himself and the defendant with the meaning of Art. III. This is the threshold question in every federal case, determining the power of the court to entertain the suit." *Warth v.*

¹ Moreover, Plaintiffs never included these earlier dates in their amended complaint when pleading deprivation of a protected property interest.

Seldin, 422 U.S. 490, 498 (1975). Because the court cannot adjudicate Plaintiffs' procedural due process claim without ascertaining the issue of Plaintiffs' standing, and Plaintiffs have not had the opportunity to respond to Defendants' argument, the court will order Plaintiffs to file a response to Defendants' argument regarding Plaintiffs' lack of standing. The court further observes that a hearing on the motion appears at this time to be unnecessary, and it will therefore cancel the June 17, 2009 hearing. See E.D. Mich. LR 7.1(e)(2). Accordingly,

IT IS ORDERED that Plaintiffs, by **June 19, 2009**, file a response not to exceed **seven pages** to Defendants' argument regarding Plaintiffs' alleged lack of standing.

IT IS FURTHER ORDERED that the June 17, 2009 hearing in this matter [Dkt. # 61] is CANCELLED. Should the briefing not resolve the issue, the court will reschedule the hearing.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 12, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 12, 2009, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
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